

ATTORNEY'S DOCKET NUMBER: 2006517-0009 (Bacterial Delivery DIV1)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Caplan et al.	Examiner:	Huynh
Serial No.:	10/728,051	Art Unit:	1644
Filing Date:	December 4, 2003	Conf. No.:	9832
Title:	MICROBIAL DELIVERY SYSTEM		

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Commissioner:

NOTICE OF APPEAL TO BOARD UNDER 37 C.F.R. § 41.31

Applicant hereby appeals the rejection of all pending claims in the above-referenced application. These claims have been twice rejected as required under 37 C.F.R. § 41.31(a)(1). The current rejection of these claims in the above-referenced case was mailed January 26, 2009. Applicant submits herewith a Petition for a three (3) month extension of time from April 26, 2009, up to and including July 26, 2009. Since July 26, 2009 fell on a Sunday, the next succeeding day which is not a Saturday, Sunday, or Federal holiday (*i.e.*, Monday, July 27, 2009) shall be considered timely under 37 C.F.R. § 1.7. Accordingly, Applicant respectfully submits that the present Notice of Appeal is timely submitted on Monday, July 27, 2009.

The extension fee of \$555.00 under 37 C.F.R. § 1.17(a) for a small entity and the Appeal fee of \$270.00 are being paid via the U.S. Patent and Trademark Office's Electronic Filing System's credit card payment option. Please charge any fees that are *necessary* to maintain pendency and/or protect the filing date of the present application to

our Deposit Account Number 03-1721, referencing Attorney's Docket Number 2006517-0009. To the extent that there are any discrepancies between what Applicant has paid with the filing of the present Application and what the USPTO believes is owed, Applicant respectfully requests that a Notice be issued explaining any such discrepancy.

Respectfully submitted,

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Date: July 27, 2009